

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VELMA WALKER, et al.,

Plaintiffs,

v.

HUNTER DONALDSON LLC, et al.,

Defendants.

CASE NO. C13-5412 BHS

ORDER GRANTING
PLAINTIFFS' MOTION TO
REMAND

This matter comes before the Court on Plaintiffs' motion to remand (Dkt. 18). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants the motion for the reasons stated herein.

I. PROCEDURAL & FACTUAL BACKGROUND

Plaintiffs filed a class action complaint in Pierce County Superior Court against Hunter Donaldson, LLC ("Hunter Donaldson"), a California limited liability company; MultiCare Health Systems ("MultiCare"), a Washington nonprofit corporation; Mt. Rainer Emergency Physicians ("Mt. Rainer"), a Washington for-profit corporation; Rebecca A. Rohlke ("Rohlke"), individually, on behalf of the marital community, and as agent of Hunter Donaldson; John Doe Rohlke, on behalf of the marital community; Ralph Wadsworth ("Wadsworth"), individually, on behalf of the marital community, and as agent of Hunter Donaldson; and Jane Doe Wadsworth, on behalf of the marital community. Dkt. 1-3 (Plaintiffs Amended Complaint).

1 Plaintiffs Velma Walker, James Stutz, Karl Walthall, Gina Cichon and Melanie
2 Smallwood received healthcare services from Defendants MultiCare and/or Mt. Rainier
3 as a result of traumatic injuries caused by third-party tortfeasors. Dkt. 1-3 at 16-17 and
4 20. "In each case, Multicare . . . authorized Hunter Donaldson to act as its agent for the
5 purpose of filing a notice of medical lien pursuant to RCW 60.44.010." *Id.* Plaintiffs'
6 complaint further alleges:

7 Multicare's Vice President in charge of Revenue Cycle at the time, Jason
8 Adams, acted in concert with others at Multicare and with Defendants
9 [Rebecca] Rohlke [a Hunter Donaldson employee] and Hunter Donaldson,
10 to provide false residency information for and falsely endorse Rohlke as a
Washington State resident on her application for a Washington State Notary
license when she was in fact a California resident, at all material times
living in La Habra, California, and Fullerton, California.

11 Dkt. 1-3 at 21.

12 Plaintiffs alleges that MultiCare's retention of Hunter Donaldson, its participation
13 in implementing a practice of falsely notarizing liens, and the subsequent invalid and
14 illegal medical liens filed in Washington on MultiCare's behalf form an integral part of
15 Plaintiffs' claims for violations of Washington's Consumer Protection Act (Dkt. 1-3 at
16 37), negligence (*id.* at 40-41), fraud (*id.* at 43-44), conversion (*id.* at 45), conspiracy (*id.*
17 at 45-46) , and unjust enrichment (*id.* at 47).

18 On May 30, 2013, Defendants filed a notice of removal to federal court on the
19 basis of federal question jurisdiction. Dkt. 1. Defendants maintain that this Court has
20 jurisdiction over this action pursuant to the Class Action Fairness Act of 2005 ("CAFA"),
21 which provides in relevant part as follows:
22

(4) A district court shall decline to exercise jurisdiction under paragraph (2)-(A)

(i) over a class action in which--

(I) greater than two-thirds of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was originally filed;

(II) at least 1 defendant is a defendant--

(aa) from whom significant relief is sought by members of the plaintiff class;

(bb) whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff class; and

(cc) who is a citizen of the State in which the action was originally filed; and

(III) principal injuries resulting from the alleged conduct or any related conduct of each defendant were incurred in the State in which the action was originally filed; and

(ii) during the 3-year period preceding the filing of that class action, no other class action has been filed asserting the same or similar factual.

28 U.S.C. § 1332(d)(4)(A) (emphasis added); *Coleman v. Estes Exp. Lines, Inc.*, 631 F.3d 1010, 1013 (9th Cir. 2011).

A plaintiff seeking remand bears the burden of showing that the local controversy exception applies. *Coleman*, 631 F.3d at 1013. In deciding whether a defendant's conduct forms a "significant basis" for the claims asserted by the proposed class, "CAFA's language unambiguously directs the district court to look only to the complaint." *Coleman*, 631 F.3d at 1015.

Although the Ninth Circuit has not established a specific list of factors for lower courts to consider in determining whether a significant basis exists, the *Coleman* decision's analysis and application of CAFA are sufficient for this Court to resolve the motion before it. *Coleman*, 631 F.3d at 1017-1020. Contrary to the Defendants suggestion (*see, e.g.*, Dkt. 26 at 7-8), the Court finds no need to adopt

1 or apply a factors analysis employed by the Third, Fifth or Tenth Circuits, which
 2 *Coleman* itself did not do. However, cases from other circuits may be indeed be
 3 instructive in determining what forms a “significant basis” under CAFA.

4 **B. Application of Standard**

5 Defendants argue that MutiCare’s alleged conduct does not form a
 6 significant basis for the claims asserted by the proposed plaintiff class under CAFA. Dkt.
 7 26 at 7. In summary, Defendants maintain that:

8 Plaintiffs point to two allegations in support of their “local
 9 controversy” argument: (1) MultiCare “authorized” Hunter Donaldson to
 10 do what it is alleged to have done; and (2) a MultiCare employee provided
 11 “false residency information” and “falsely endorse[d]” Ms. Rohlke on her
 application to become a Washington State Notary. Mot. at 5-6. Neither
 establish that MultiCare’s conduct forms a “significant basis” for Plaintiffs’
 asserted claims.

12 *Id.* at 8.¹ Defendants indicate Plaintiffs’ claims focus on the actions of non-local
 13 Defendants Hunter Donaldson, Rohlke and Wadsworth, who allegedly erred in preparing,
 14 recording and assisting with the recovery on Plaintiffs’ liens. *Id.* at 9. Even though
 15 Plaintiffs claim MultiCare “authorized” the conduct, Defendants essentially argue that the
 16 allegations do not indicate that MultiCare or Mt. Rainer dictated procedure by which
 17 Hunter Donaldson operated with respect to the liens, they “ratified” Hunter Donaldson’s
 18 lien practices, had any supervisory direction over the lien process, or even knew how the
 19 process worked. *Id.*

21 ¹ Defendants properly note that Plaintiffs focus on MultiCare rather than Mt. Rainer;
 22 thus, Defendants do the same in their brief and indicate their arguments regarding MultiCare
 “equally apply to Mt. Rainer.” Dkt. 26 at 8 n. 5.

1 However, under *Coleman*, for MultiCare’s conduct to form a significant basis, it is
2 not necessary that Hunter Donaldson’s lien policies and the like be established by
3 MultiCare; nor is the local defendant required to have supervised the lien process. *See*
4 *Coleman*, 631 F.3d at 1018-1019 (quoting the CAFA Senate Committee example that
5 demonstrated one type case in which the core of the case was a local controversy when
6 out-of-state entity parent company was involved in supervising the conduct of its local
7 entities, the case involved 90% Florida plaintiffs, and the Florida state court where the
8 action was brought has a strong interest in resolving the dispute). *Id.*

9 Furthermore, as Plaintiffs argue, although Hunter Donaldson claims that most of
10 its claims focus on its conduct (*see, e.g.*, Dkt. 26 at 10-11), the task of analyzing whether
11 the significant basis exception applies is not necessarily a “quantitative” one. Dkt. 28 at
12 4-5 (*citing Kaufman v. Allstate New Jersey Ins. Co.*, 561 F.3d 144, 155-157). As
13 *Kaufman* put it, “[t]he word ‘significant’ is defined as ‘important, notable.’” 561 F.3d at
14 157. Even if Plaintiffs had asserted most of these claims against all non-local
15 Defendants, that would not necessarily make the allegations against MultiCare
16 insignificant, or unimportant. *See Coleman*, 631 F.3d at 1020. Based on the complaint,
17 however, MultiCare is alleged not only to have retained Hunter Donaldson but also to
18 have facilitated Rolhke’s fraudulent Washington State notary commission. *See* Dkt. 1-3
19 at 38-40. As Plaintiffs state, this conduct “underlies all of Plaintiffs’ claims against the
20 other Defendants save two: the unlawful operation of a collection agency and related
21 CPA claims against Hunter Donaldson.” Dkt. 28 at 7 (*citing* Dkt. 1-3 at 38-40).
22 Additionally, all Plaintiffs’ allegations, excepting the two cited above, rely, at least in

1 part, on MultiCare's alleged implementation of the false notarization schedule and/ or
2 retention of Hunter Donaldson to file invalid or unlawful liens. Further, the fact that the
3 other the non-local defendants were allegedly acting as agents on behalf of local
4 defendants, MutliCare and Mt. Rainer, further supportst, on the basis of the complaint,
5 that MultiCare's conduct formed a significant basis for Plaintiffs' claims. Finally,
6 Plaintiffs' claims involve questions of state law under chapter 60.44 RCW, the
7 Washington medical lien statute; chapter 19.86 RCW, the Washington Consumer
8 Protection Act; and Washington common law.

9 Given the foregoing, the "controversy is at its core a local one," and the
10 Washington state superior court, where this case was originally brought, "has a strong
11 interest in resolving the dispute." *Coleman*, 631 F.3d at 1020 (*quoting* S. Rep. No. 109-
12 14, at 41 (2005)). Accordingly, both MultiCare's alleged conduct and the legal issues
13 involved in this case compel the Court to remand this case to Pierce County Superior
14 Court where it was originally filed.

15 III. ORDER

16 Therefore, it is hereby **ORDERED** that Plaintiffs motion for remand is
17 **GRANTED**.

18 Dated this 16th day of September, 2013.

19
20 

21 BENJAMIN H. SETTLE
22 United States District Judge